

ATTORNEY DOCKET NO. 14114.0331U2
APPLICATION NO. 10/018,627

Remarks

Claims 1, 2, and 13-20 are pending. Claim 1 is objected to for reciting non-elected inventions. Claim 2 is allowed. Claims 3-11 are rejected. Claims 3-12 are canceled herein. New claims 13-20 have been added. Claim 1 has been amended to remove reference to non-elected inventions. Support for new claims 13-20 can be found throughout the specification and at least on original claim 1, and page 10, lines 29-37 which disclose SEQ ID NOs. 3, 5, and 7 as nucleic acids of the spumavirus isolated from a human.

Applicants appreciate the Examiner's comments made during the February 24, 2004 telephone interview regarding claims 1 and 2. It is recognized and acknowledged that amended claim 1 drawn to SEQ ID NO. 1 and claim 2 are currently allowable. Applicants also appreciate the Examiner's suggestion regarding the addition of new dependent claims that recite specific compositions that the applicants would be entitled to due to their dependency from allowable claim 1.

35 U.S.C. § 112, ¶ 2

1. Applicants gratefully acknowledge the withdrawal of the prior rejection to claims 1-11 under 35 USC 112.

2. Claims 3-6 and 7-11 remain rejected under 35 U.S.C. § 112, ¶ 1 for allegedly failing to comply with the enablement requirement. In particular claims 3-6 and 7-11 have been rejected for allegedly failing to teach how to make viruses with heterologous inserts, how the virus will kill dividing cells, as well as, how the virus can inhibit tumor formation or growth. Applicants have canceled claims 3-12. As the rejected claims have been canceled, applicant asserts that this rejection is moot and respectfully requests its withdrawal.

3. Claims 3-6 and 7-11 remain rejected under 35 U.S.C. § 112, ¶ 1 for allegedly failing to comply with the written description requirement. Specifically, the Examiner alleges that an SFVHu-6 with an insert and a method of killing dividing cells, in vivo and in vitro with the SFVHu-6 of the invention as well as inhibiting tumor formation or growth has not been described in such a way as to reasonably convey to someone of skill in the art that the applicants are in possession of the invention. Applicants have canceled claims 3-12. As the rejected claims

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have been canceled, applicant asserts that this rejection is moot and respectfully requests its withdrawal.

Pursuant to the above amendments and remarks, reconsideration and allowance of the pending application is believed to be warranted. The Examiner is invited and encouraged to directly contact the undersigned if such contact may enhance the efficient prosecution of this application to issue.

No fee is believed due. However, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence, including any items indicated as attached or included, is being sent via facsimile transmission to :
703/308-4242, ATTN: Examiner M. Hill, on the date indicated below.


Gwendolyn D. Spratt

3-3-04
Date